IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 1937 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 09/04/2004 in WP NO : 6909 OF 2004 on the file of the High Court.)

Between:

1 The Executive Engineer (R & B), Division Nalgonda District.
2 The Commissioner for Relief & EO Secretary to Government, Secretariat, Hyderabad.
3 The Chief Engineer (Roads & Buildings), Hyderabad.

..... APPELLANTS

AND

1 Vaddera Bharathi VLCCS, Siripuram Village, Ramannapet Mandal,
Nalgonda District, Rep. by its President, S. Yadaiah, S/o. Muthaiah, aged 41 years, R/o. Siripuram Village,
Ramannapet Mandal, Nalgonda district.
2 Sri Rajivi Gandhi VLCCS, Parepalli Village, Chityal Mandal,
Nalgonda District, Rep. by its President, V. Yadaiah, S/o. Maraiah, aged 35 years, R/o.Parepalli Village,

Chityal, Nalgonda district.

3 Maheshwara Vigneswara VLCCS, Pongal, Nalgonda District,
rep. by its President S. Mallesh, S/o. Saidulu, Aged 36 Years,. R/o. Pongal, Nalgonda District.
4 V. Yellaiah, Veddara Contractor, S/o. Buchiramulu, Pongal, Nalgonda district,

.....RESPONDENTS

Counsel for the Appellants : GP FOR TRANSPORT (ROADS & BUILDINGS)

Counsel for the Respondents: MR.P.VENKATESWAR RAO

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Appeal is against the order passed by the learned single Judge disposing of the writ petition filed by the writ petitioners – respondents with direction to the appellants herein to deduct the value of the rice only at the rate fixed as per the terms of the agreement i.e., at

Rs.5.65 per kg.

2 . Writ petitioners had questioned the action of the appellants herein in deducting the value of the rice at Rs.7.30 per kg., as against Rs.5.65 per kg., from the final bills, as illegal and arbitrary.

3. Learned single Judge noticed the stand taken by the learned counsel for the appellants that there is no proceedings proposing to recover and writ petition had been filed on mere apprehension. Taking note of this position,

learned single Judge simply proceeded to dispose of the writ petition with direction aforementioned without even considering the stand whether such a writ petition would or would not be maintainable in a contractual matter. Admittedly, dispute arose out of a contract entered into between writ petitioners with the appellants. The contract undertaken by the writ petitioners itself is subject to certain terms and conditions. Such a dispute raised by the writ petitioners obviously would be within the realm of contractual obligations amenable to only civil remedy and not before the writ Court. A Division Bench of this Court in W.A.No.1154 of 2004 decided on 19.08.2004 took a similar view and dismissed the writ petition with liberty reserved to the writ petitioner to seek his remedy in a Civil Court in accordance with law.

4 . Writ Appeal is accordingly allowed. Impugned order is set aside. Writ petition is dismissed with liberty reserved to the writ petitioners to seek their redressal in appropriate Civil Court in accordance with law. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 09.12.2004.

VRK.

To

1 The Executive Engineer (R & B), Division Nalgonda District.
2 The Commissioner for Relief & EO Secretary to Government, Secretariat, Hyderabad.
3 The Chief Engineer (Roads & Buildings), Hyderabad.

4. Two CCs to G.P., for Transport (Roads & Buildings), High Court Buildings, Hyderabad (OUT).

5. Two CD copies.

HOBN'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 1937 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 09.12.2004.

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